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DISSENTING OPINION

OF

COMMISSIONER JOAN D. AIKENS

TO

ADVISORY OPINION 1984-12

While I agreed with the conclusion reached in Advisory Opinion 1984-12, I voted against the opinion because of several qualifying amendments inserted into the opinion on reconsideration.

The request was made on behalf of the Board of Regents (the "Board") of American College of Allergists, Inc. (the "College"). The Board sought the Commission's opinion on two issues: (1) that the College is not a "connected organization" as defined by the FECA, and (2) that the political committee to be established will not be a separate segregated fund (SSF) of the College.

In its response, the Commission stated that based on the information provided in the request, the College would not be a "connected organization" of the Independent Allergists Political Action Committee (IAPAC), and IAPAC would not be its SSF.

The Federal Election Campaign Act (FECA) and its regulations, as well as the Commission's own Campaign Guide for Corporations and Labor Organizations, defines a connected organization as:

. . . Any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

The facts as outlined in the advisory opinion request establish that none of these criteria are met.

The members of the Board propose to establish IAPAC in their individual capacities and in conjunction with nonmembers of the College. IAPAC, as proposed, will not be established, funded, or administered in any manner by the College but will be operated and governed independently of the College.

The College is a tax-exempt organization as defined by 26 U.S.C. 501(c)(3) and, as such, may not establish a SSF or engage in political activity. However, the IRS restrictions do not apply to groups of individuals who establish nonconnected political action committees. Presumably, the College would not jeopardize its tax exempt status in order to establish a SSF, but would, instead, go to great lengths to insure that any such committee was truly nonconnected.

In this case, a group of individuals, several of whom are associated with the College, have decided to establish a political committee. According to their request, all start-up costs and expenses will be paid for solely from contributions to IAPAC or by individual organizers. IAPAC will be operated and governed independently of the College and will not be directly or indirectly supported by the College. By our own definition of what constitutes a "connected organization" as well as the requestor's own assertions and assurances, IAPAC has planned to establish itself as a nonconnected political committee.

I concur with the Commission's conclusion that the College is not the connected organization of IAPAC. However, this conclusion was qualified by an "ensuing discussion" adding warnings and cautions on the operations of the Committee that have little basis in the law and regulations. I do not believe the FEC can expand the definition of a nonconnected political committee in an advisory opinion. For that reason, I voted against Advisory Opinion 1984-12.

7-18-84  
Date

Joan D. Aikens  
JOAN D. AIKENS  
Commissioner